

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel, W.A. DREW  
EDMONDSON, in his capacity as ATTORNEY  
GENERAL OF THE STATE OF OKLAHOMA,  
et al.,

Plaintiff,

v.

TYSON FOODS, INC., et al.,

Defendants.

Case No. 4:05-CV-329-JOE-SAJ

**EXHIBIT “1” to**  
**MOTION FOR LEAVE TO FILE REPLY**

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STATE OF OKLAHOMA, ex rel, W.A. DREW  
EDMONDSON, in his capacity as ATTORNEY  
GENERAL OF THE STATE OF OKLAHOMA,  
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Plaintiff,

v.

TYSON FOODS, INC., et al.,

Defendants.

Case No. 4:05-CV-329-JOE-SAJ

**AFFIDAVIT OF MELISSA KEPLINGER**

STATE OF OKLAHOMA                    )  
  )       ss.  
COUNTY OF OKLAHOMA                )

BEFORE ME, the undersigned authority, on this day personally appeared Melissa Keplinger who, being duly sworn on oath to tell the truth, testifies to her best knowledge and belief as follows:

1. My name is Melissa Keplinger. I am over the age of 21, of sound mind, and competent to make this Affidavit.

2. I am employed as a paralegal at Ryan, Whaley & Coldiron, P.C. ("Ryan Whaley"), counsel of record for Tyson Foods, Inc.; Tyson Poultry, Inc.; Tyson Chicken, Inc.; and Cobb-Vantress, Inc.

3. The *Defendants' Reply in Support of Their Motion to Stay Proceedings and Request for Expedited Hearing* (the "Reply") was completed, finalized, and ready to be timely filed on December 13, 2005.

4. Starting at approximately 8:30 p.m. on December 13, 2005, I attempted to file the Reply through this Court's electronic court filing ("ECF") system, but was unable to gain access to the Court's website through which ECF filings are made.

5. We made continuous attempts from 8:30 p.m. until 10:45 p.m., through two computer systems, but were never able to gain access to this Court's ECF system during that time period.

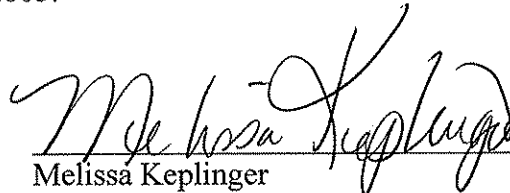
6. To my best knowledge and belief, there were no line problems, ISP problems, hardware or software problems involving Ryan Whaley's computer system as access to the Internet, e-mail, and numerous other websites was available at all times on December 13, 2005, and specifically during the time period of 8:30 p.m. to 10:45 p.m. on that day.

7. The Court's ECF system was unable to accept my numerous attempts to file the Reply, continuously or intermittently, over the course of a time period greater than two (2) hours after 12:00 p.m. on December 13, 2005.

8. During the pendency of the above-captioned litigation, to date I have been responsible for filing at least twenty (20) different pleadings through this Court's ECF system and I have never encountered a problem. *See* Docket Nos. 34, 35, 36, 48, 64, 65, 66, 67, 69, 71, 73, 80, 94, 125, 137, 142, 143, 144, 145, and 146 (filed December 6, 2005).

FURTHER, AFFIANT SAYETH NOT.

Signed on this the 14<sup>th</sup> day of December, 2005.

  
Melissa Keplinger

Subscribed and sworn to me this the 14<sup>th</sup> day of December, 2005. Witness my hand and official seal.

*Vicki L. Campbell*  
Notary Public

My Commission #

Expires:

